

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

FRANITZA FAMILY LIMITED PARTNERSHIP,
MANFRED FRANITZA REVOCABLE TRUST,
MANFRED FRANITZA, individually and in his
capacities as General Partner of the Franitza Family
Limited Partnership and as Trustee and/or
Beneficiary of the Manfred Franitza Revocable
Trust, Margrit Franitza, individually and in her
capacities as General Partner of the Franitza Family
Limited Partnership and as Trustee and/or
Beneficiary of the Manfred Franitza Revocable
Trust, URTE FRANITZA-GOLDSTEIN,
individually and as General Partner of the Franitza
Family Limited Partnership, and KAREN
FENNER, individually and a General Partner of the
Franitza Family Limited Partnership,

Defendants.

Adv. Pro. No. 10-04476 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL
OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), by and through his counsel, Baker & Hostetler LLP, and (i) Franitza Family Limited Partnership, (ii) Manfred Franitza Revocable Trust, (iii) Manfred Franitza, individually and in his capacities as general partner of the Franitza Family Limited Partnership and as trustee and/or beneficiary of the Manfred Franitza Revocable Trust, (iv) Margrit Franitza, individually and in her capacities as general partner of the Franitza Family Limited Partnership and a trustee and/or beneficiary of the Manfred Franitza Revocable Trust, (v) Urte Franitza-Goldstein, individually and as general partner of the Franitza Family Limited Partnership, and (vi) Karen Fenner, individually and as general partner of the Franitza Family Limited Partnership (collectively, the “Defendants”), by and through their counsel, Lax & Neville, LLP (together with the Defendants, the “Parties”), hereby stipulate and agree to the following:

1. On November 30, 2010, the Trustee filed the Complaint against the Defendants.
2. On April 17, 2014, the Defendants filed and served a Motion to Dismiss on the Trustee.
3. On January 30, 2015, the Parties entered into a settlement agreement (the “Settlement Agreement”) pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181].
4. Under the Settlement Agreement, the Defendants will make installment payments to the Trustee and the Defendants will execute a Stipulation for Entry of Judgment, as security for the installment payments, which will be held in escrow by Trustee and not filed unless there

is a default in the installment payments which remains uncured after fifteen (15) business days' notice of default to the Defendants and their counsel.

5. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee's claims against the Defendants in the above-captioned adversary proceeding and dismissing the adversary proceeding, subject to the right of the Trustee to move *ex parte* to re-open this adversary proceeding in the event of any uncured default in the installment payments to seek entry of Judgment Pursuant to Stipulation for Entry of Judgment.

6. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

7. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

[The remainder of this page is intentionally left blank. Signature page follows.]

Dated: February 3, 2015

Of Counsel:

BAKER & HOSTLER LLP

811 Main Street, Suite 1100
Houston, Texas 77002
Telephone: (713)751-1600
Facsimile: (713)751-1717
Dean D. Hunt
Email: dhunt@bakerlaw.com
Farrell A. Hochmuth
Email: fhochmuth@bakerlaw.com

BAKER & HOSTETLER LLP

By: s/ Nicholas J. Cremona
45 Rockefeller Plaza
New York, New York 10111
Telephone: 212.589.4200
Facsimile: 212.589.4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Nicholas J. Cremona
Email: ncremona@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and for the Estate of Bernard L. Madoff*

LAX & NEVILLE, LLP

By: /s/ Gabrielle J. Pretto
1450 Broadway, 35th Floor
New York, New York 10018
Telephone: 212.696.1999
Facsimile: 212.566.4531
Gabrielle J. Pretto
Email: gpretto@laxneville.com
Brian J. Neville
Email: bneville@laxneville.com
Barry R. Lax
Email: blax@laxneville.com

Attorneys for Defendants

SO ORDERED

Dated: February 3rd, 2015
New York, New York

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE